

AMENDED IN SENATE MAY 3, 2016
AMENDED IN SENATE APRIL 13, 2016

SENATE BILL

No. 1007

Introduced by Senator Wieckowski

February 10, 2016

An act to amend Section 1286.2 of, and to add Section 1282.5 to, to the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, as amended, Wieckowski. Arbitration: transcription by certified shorthand reporter.

Existing law establishes standards for arbitration, and requires a court to vacate an arbitration award if it makes certain findings.

This bill would provide that a party to an arbitration has the right to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing as the official record. The bill would require *a party requesting a certified shorthand reporter to make his or her request upon the initiation of the arbitration or at the time that any deposition, proceeding, or hearing is being calendared, and would also require the party requesting the transcript to incur the expense of the certified shorthand reporter, except as specified in a consumer arbitration. The bill would also require a court to vacate an arbitration award if the court determines that an arbitrator refused to authorize a party whose request has been refused by the arbitrator to petition the court for an order to compel the arbitrator to grant the party's request to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1282.5 is added to the Code of Civil Procedure, to read:

1282.5. (a) (1) A party to an arbitration has the right to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing. The transcript shall be the official record of the deposition, proceeding, or hearing.

(2) A party requesting a certified shorthand reporter shall make his or her request upon the initiation of the arbitration or at the time that any deposition, proceeding, or hearing is being calendared.

(b) If an arbitration agreement does not provide for a certified shorthand reporter, the party requesting the transcript shall incur the expense of the certified shorthand reporter. However, in a consumer arbitration, a certified shorthand reporter shall be provided upon request of an indigent consumer, as defined in Section 1284.3, at the expense of the nonconsumer party.

(c) If an arbitrator refuses to allow a party to have a certified shorthand reporter transcribe any deposition, proceeding, or hearing pursuant to this section and an award is made, the court shall vacate the award under paragraph (7) of subdivision (a) of Section 1286.2. section, the party may petition the court for an order to compel the arbitrator to grant the party's request.

~~SEC. 2. Section 1286.2 of the Code of Civil Procedure is amended to read:~~

~~1286.2. (a) Subject to Section 1286.4, the court shall vacate the award if the court determines any of the following:~~

~~(1) The award was procured by corruption, fraud, or other undue means.~~

~~(2) There was corruption in any of the arbitrators.~~

~~(3) The rights of the party were substantially prejudiced by misconduct of a neutral arbitrator.~~

~~(4) The arbitrators exceeded their powers and the award cannot be corrected without affecting the merits of the decision upon the controversy submitted.~~

~~(5) The rights of the party were substantially prejudiced by the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown, by the refusal of the arbitrators to hear evidence~~

1 material to the controversy, or by other conduct of the arbitrators
2 contrary to the provisions of this title.

3 ~~(6) An arbitrator making the award either: (A) failed to disclose~~
4 ~~within the time required for disclosure a ground for disqualification~~
5 ~~of which the arbitrator was then aware; or (B) was subject to~~
6 ~~disqualification upon grounds specified in Section 1281.91 but~~
7 ~~failed, upon receipt of timely demand, to disqualify himself or~~
8 ~~herself as required by that provision. However, this subdivision~~
9 ~~does not apply to arbitration proceedings conducted under a~~
10 ~~collective bargaining agreement between employers and employees~~
11 ~~or between their respective representatives.~~

12 ~~(7) An arbitrator refused a party's request under Section 1282.5~~
13 ~~for a shorthand reporter.~~

14 ~~(b) Petitions to vacate an arbitration award pursuant to Section~~
15 ~~1285 are subject to the provisions of Section 128.7.~~